

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Competitive Product Prices
Priority Mail Contract 199 (MC2016-100)
Negotiated Service Agreements

Docket No. CP2016-128

PUBLIC REPRESENTATIVE COMMENTS ON USPS NOTICE OF CHANGE IN
PRICES PURSUANT TO AMENDMENT TO PRIORITY MAIL CONTRACT 199

(November 2, 2017)

INTRODUCTION

The Public Representative hereby provides comments pursuant to the Commission's notice initiating these dockets.¹ In this notice, the Commission established the above referenced docket to consider matters from interested persons, including the undersigned Public Representative, on the Postal Service's intent to amend Priority Mail Contract 199 on the grounds that the modified contract continues to meet the requirements of 39 U.S.C. § 3633.² The Second Notice of Amendment included redacted copies of the amendment (Amendment) and a Certification of Compliance with 39 U.S.C. § 3633 (Certification) as attachments. A redacted supporting financial model was filed separately as an Excel file. Unredacted versions of these documents were also filed under seal.

On March 29, 2016, the Commission issued Order No. 3188 approved the addition of Priority Mail Contract 199 to the competitive product list.³ In its analysis, the Commission found that the Contract met the requirements set forth in 39 U.S.C. § 3642 for classification as a competitive product. Order No. 3188 at 3-4. The Commission also found that the prices offered in the contract satisfied the requirements of 39 U.S.C. § 3633. *Id.* at 4-5.

¹ Notice Initiating Dockets for Recent Postal Service Negotiated Service Agreement Filings, November 1, 2017.

² USPS Notice of Change in Prices Pursuant to Amendment to Priority Mail Contract 199, October 31, 2017 (Notice of Amendment).

³ Order No. 3188, Order Adding Priority Mail Contract 199 to the Competitive Product List, March 29, 2016 (Order No. 3188).

The Amendment changes the prices offered under Priority Mail Contract 199 as contemplated by the contract's terms and will become effective two business days after the day on which the Commission completes its review. Notice of Amendment at 1.

COMMENTS

After reviewing the Postal Service's Notice of Amendment and the unredacted copies of the Amendment, Priority Mail Contract 199, Certification, and the supporting financial model that were filed under seal, the Public Representative finds that the amended Priority Mail Contract 199 continues to meet the requirements of cost coverage and product list requirements set forth in 39 U.S.C. § 3633 and 39 U.S.C. § 3642, respectively.

39 U.S.C. § 3642. The Public Representative agrees with the Commission's findings that Priority Mail Contract 199 satisfies the requirements for inclusion on the competitive product list. Order No. 3701 at 3-4. The Amendment does not alter the services the Postal Service provides under the contract. Hence, the amended Priority Mail Contract 199 is still a competitive product.

39 U.S.C. § 3633. Pursuant to 39 U.S.C. § 3633(a), the Postal Service must demonstrate that competitive product rates (1) do not result in market dominant products subsidizing competitive products, (2) ensure that each competitive product covers its attributable costs; and (3) enable competitive products as a whole to cover an appropriate share of the institutional costs of the Postal Service. The Public Representative agrees with the Commission's earlier finding that the original contract meets these requirements. *Id.* at 5. The Postal Service has certified that the amended contract will continue to comply with these requirements. Certification at 1. After reviewing the financial model filed under seal, the Public Representative agrees that the prices offered under the amended contract will continue to satisfy the requirements of 39 U.S.C. § 3633 for the next year of the contract. The Postal Service has not provided evidence that the contract will continue to cover costs over the entire length of the contract, which is set to terminate on March 31, 2019. However, this concern is mitigated partially by terms of the contract that link the prices offered under the contract to the prevailing Priority Mail prices of general applicability, which should help facilitate

cost coverage past the next year. In addition, the Commission has the opportunity to conduct an annual compliance review in its Annual Compliance Determination.

The Public Representative respectfully submits the foregoing comments for the Commission's consideration.

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